

## **AMENDED PROPOSED REGULATORY TEXT**

Proposed additions are indicated by underline and deletions are indicated by ~~striketrough~~.

~~BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS~~  
~~DIVISION 2. BOARD OF PRISON TERMS~~  
~~CHAPTER 6. PAROLE REVOCATION~~  
~~ARTICLE 7. WARRANTS OF ARREST~~

~~15 CCR § 2710 to read as follows:~~

**~~§ 2710. General.~~**

~~The board may issue warrants ordering a parolee placed or retained in custody as provided in this article.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code~~

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~~DIVISION 2. BOARD OF PRISON TERMS~~  
~~CHAPTER 6. PAROLE REVOCATION~~  
~~ARTICLE 7. WARRANTS OF ARREST~~

~~15 CCR § 2711~~ to read as follows:

**~~§ 2711. Warrants Based on Board Action.~~**

~~(a) Parole Suspended. When the Regional Administrator or the Interstate Unit submits a parole violation report charging that a parolee has absconded or otherwise violated the conditions of parole the board at the central office calendar may decide to order parole suspended. If parole is suspended, the board shall issue a warrant. The warrant shall be signed by a commissioner of the board.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3060, 5075 and 5076.1, Penal Code.~~

For disability related accommodations, please contact the BPH Americans with Disabilities Act Coordinator at (916) 445-4072, at least five (5) working days prior to the scheduled meeting. All persons and property entering into this facility may be subject to search. No unauthorized weapons are allowed pursuant to Penal Code Section 171b.

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~~CHAPTER 6. PAROLE REVOCATION~~  
~~ARTICLE 7. WARRANTS OF ARREST~~

15 CCR § 2712 to read as follows:

**~~§ 2712. Warrants Based on Individual Member Action.~~**

~~(a) General. A member may order a parolee placed or retained in custody when the member has good cause to believe the parolee has absconded or otherwise violated the conditions of parole. This warrant may be issued without any prior board action suspending or revoking parole.~~

~~(b) Procedure. The member may issue the warrant and notify appropriate law enforcement agencies of the issuance. Immediately after issuing the warrant the member shall forward the warrant, the reasons or basis for its issuance and a list of law enforcement agencies notified, if any, to the Executive Officer.~~

~~(c) Central Office Procedure. Upon receipt of the warrant the Executive Officer shall immediately notify the Parole and Community Services Division of the warrant and the reasons for the issuance. P&CSD shall investigate the basis for the warrant and submit a parole violation report to the board at the central office calendar. The board at the central office calendar may determine to suspend parole and continue the warrant or may determine not to suspend parole. If parole is not suspended the board at the central office calendar shall notify the Executive Officer who shall recall the warrant as provided in § 2713.~~

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
DIVISION 2. BOARD OF PAROLE HEARINGS ~~PRISON TERMS~~  
CHAPTER 6. PAROLE REVOCATION  
ARTICLE 7. WARRANTS OF ARREST

15 CCR § 2713 to read as follows:

### **§ 2713. Recall of Warrant.**

(a) General. ~~Board w~~Warrants issued pursuant to the board's authority prior to July 1, 2013, remain in full force and effect until served or until the Executive Officer or designee recalls the warrant by removing it from the active warrant file and notifying appropriate law enforcement agencies that the warrant has been recalled.

(b) Arrest of Parolee. The Executive Officer or designee shall recall warrants upon notification from the Division of Adult Parole Operations ~~Regional Administrator~~ that a parolee subject to a warrant has been taken into custody ~~by the department~~. All instances of parolees arrested pursuant to a warrant issued by the board shall be reviewed by the board for discharge of parole prior to the Division of Adult Parole Operations filing a petition with the court to revoke parole. If the board discharges the subject of the warrant from parole, it shall recall the warrant.

(c) Discharge of Absconder. The Division of Adult Parole Operations ~~Regional Administrator~~ shall notify the board ~~at the central office calendar~~ of the case of any absconder who has been at large for five years and who has met the minimum term considering time in prison, on parole, and at large. The board ~~at the central office calendar~~ may determine to discharge the absconder. If the board ~~at the central office calendar~~ discharges the subject of the warrant from parole, the ~~absconder~~ it shall recall the warrant.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000 and 3060, Penal Code.

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DIVISION 2. BOARD OF PAROLE HEARINGS ~~PRISON TERMS~~  
CHAPTER 6. PAROLE REVOCATION  
ARTICLE 7. WARRANTS OF ARREST

15 CCR § 2714 to read as follows:

**§ 2714. Warrants Entered Into State and National Warrant Systems.**

~~(a) California System. All warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be entered in the California warrant system (Wanted Persons System).~~

~~(b) National Warrant System.~~

~~(1) Criteria for Entering Warrant in National System. Warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be reviewed by the board at the central office calendar to determine if the warrant should be entered in the national warrant system (National Crime Information Center "NCIC"). The factors to consider in determining whether to enter the warrant in NCIC include whether the parolee:~~

~~(A) Has a history of prior felony convictions for crimes of violence or for offenses involving weapons, great bodily injury, or sexual assaults;~~

~~(B) Is wanted by other state agencies;~~

~~(C) Was on parole from a term imposed for a violent crime or for multiple offenses;~~

~~(D) May remain on parole at least three months considering the amount of time his parole period can be extended;~~

~~(E) Was suspected of having committed other offenses at the time he absconded;~~

~~(F) Has family, employment, or residential ties with California;~~

~~(G) Is likely to have absconded to another state;~~

~~(H) Might be accepted for supervision in another state.~~

~~The board shall consider any other relevant information, including the expense of returning a~~  
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parolee to California.

~~Whenever the board enters a warrant into the NCIC, the board's suspension order shall indicate the specific reasons the warrant has been entered in that system and include an action to return the parolee to California for revocation proceedings.~~

(a2) Execution of Warrant When the Parolee has Absconded. When a parolee is arrested outside of California pursuant to a warrant issued by the board, the matter shall be reviewed by the board for discharge of parole. the warrant is executed, the parolee shall be returned to California for revocation proceedings (see Chapter 6, Article 7) The board's review shall include consideration of whether unless there are specific circumstances and substantial reasons that indicate a return would not be in the interests of justice. If the board does not discharge parole, the parolee shall be extradited pursuant to the warrant.

(b3) Purging Warrants. If a the warrant issued by the board has not been executed five years after entering it in the National Crime Information Center (NCIC), the board shall review the case. If no other jurisdictions have issued warrants since the board issued its warrant, the board shall remove the warrant from the NCIC, unless reasons are stated for retaining the warrant.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000, 3060, and 11177, Penal Code.

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### ~~BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS~~

#### ~~TITLE 15. CRIME PREVENTION AND CORRECTIONS~~

#### ~~DIVISION 2. BOARD OF PRISON TERMS~~

#### ~~CHAPTER 6. PAROLE REVOCATION~~

#### ~~ARTICLE 9 PAROLE REVOCATION EXTENSION PROCEDURES~~

15 CCR § 2740 to read as follows:

#### **~~§ 2740. Parolees Revocation Maximum Term.~~**

~~(a) Parole Hold/Discovery Date Prior to October 1, 2011. Confinement pursuant to a revocation of parole, in the absence of a new conviction and commitment under other provisions of law, shall not exceed 12 months, except as provided in Section 2742, or as otherwise provided by law.~~

~~(b) Parole Hold/Discovery Date On or After October 1, 2011. Confinement pursuant to a revocation of parole, in the absence of a new conviction under other provisions of law, shall not exceed 180 days, except as provided in Section 2742, or as otherwise provided by law.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3056, 3057, 3060 and 3060.5, Penal Code.~~

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~~DIVISION 2. BOARD OF PRISON TERMS~~

~~CHAPTER 6. PAROLE REVOCATION~~

~~ARTICLE 9 PAROLE REVOCATION EXTENSION PROCEDURES~~

15 CCR § 2741 to read as follows:

### **~~§ 2741. Release to Parole.~~**

~~Following a return to custody term of confinement pursuant to a parole revocation or a parole revocation extension, and without a new commitment to prison, a parolee shall be released to parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Penal Code Section 3000 which was unexpired at the time of each revocation.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3057, Penal Code.~~

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~~BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS CURRENTNESS~~

~~TITLE 15. CRIME PREVENTION AND CORRECTIONS~~

~~DIVISION 2. BOARD OF PRISON TERMS~~

~~CHAPTER 6. PAROLE REVOCATION~~

~~ARTICLE 9 PAROLE REVOCATION EXTENSION PROCEDURES~~

15 CCR § 2742 to read as follows:

### **~~§ 2742. Parole Violation Extension Procedures.~~**

~~(a) General. Notwithstanding the provisions of Section 2740, the board may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation.~~

~~(b) Reportable In-Custody Misconduct. Upon discovery of a parolee's misconduct, the institution or county jail/holding facility staff will determine whether or not the conduct is reportable to the Board of Prison Terms as conduct for which revocation custody time may be extended under Penal Code Section 3057(c).~~

~~(c) Reporting. CDC/county jail staff shall present the parolee's misconduct to the Board of Prison Terms. Reports of misconduct shall be forwarded whether or not the underlying conduct has been adjudicated by CDC.~~

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~~Institutional staff shall prepare and present their cases to any available deputy commissioner or commissioner for screening and disposition of the case at the institution where the parole violator is housed.~~

~~County jail cases will be forwarded to the regional headquarters, P&CSD, where they will be presented to a deputy commissioner or commissioner for screening and disposition.~~

~~(d) Extension Pending Hearing. In any misconduct case in which the parolee is within 45 days of his/her re-release date, and where there is no deputy commissioner or commissioner personally available, staff shall report the misconduct by telecopier to the board central office calendar for immediate action requesting that the parolee's re-release date be extended for a period not to exceed 30 days for misconduct punishable as a serious disciplinary offense or for a period not to exceed 45 days for misconduct punishable as a misdemeanor or felony. The signature of one commissioner or deputy commissioner shall be required to order the extension pending revocation extension proceedings.~~

~~(e) Urgent Extension Pending Hearing. In those instances wherein the act of misconduct takes place immediately prior to release or during such time as the Board of Prison Terms is closed (holidays, weekends, evenings, etc.), and the release of the parolee/inmate would otherwise take place without an action by the board, staff may contact authorized BPT employees by phone and these persons may order that the parolee's release be extended without written order. Any telephonic extension so ordered shall be confirmed by the person ordering it in writing on the next working day.~~

~~(f) Screening. Screening (offering and accepting stipulated dispositions) shall be conducted by one deputy commissioner or commissioner and an extension period offered commensurate with the degree of seriousness of the misconduct. If the parolee accepts the revocation extension offer, he/she shall sign an unconditional waiver, under the provisions of section 2641(a). In cases where there is insufficient information to support a good cause finding but the reviewer believes that upon presentation of additional evidence a good cause finding could be made, the matter will be scheduled for a revocation extension hearing and the commissioner or deputy commissioner shall notify P&CSD that additional evidence must be obtained and provided for the revocation extension hearing.~~

~~(g) Optional Waivers. A parolee may sign an optional waiver under section 2641(b) in cases where criminal charges are pending relating to the same conduct. Upon disposition of the criminal charges, the parolee may request a hearing or sign an unconditional waiver.~~

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~~(h) Scheduling. All cases requiring an extension hearing shall be scheduled promptly in order to maintain the availability of witnesses. When the revocation release date has been extended pending a hearing, the hearing shall be conducted prior to the extended revocation release date or the misconduct charges will be dismissed.~~

~~(i) Rights. Parolees pending a revocation extension hearing will be afforded the same rights as parolees pending revocation hearings.~~

~~(j) Transfer Pending Hearing. Parolees scheduled for revocation extension hearings shall not be transferred from the institution prior to the hearing.~~

~~(k) Disposition.~~

~~(1) Multiple Misconduct Charges. Multiple misconduct charges shall be assessed consecutive to each other, and shall not exceed 12 months for all misconduct during one parole revocation period.~~

~~(2) Disciplinary Rule Violation Schedule. When a hearing panel makes a good cause finding that a prisoner has committed an act of misconduct which is subject to punishment pursuant to Penal Code Section 3057, the hearing panel may assess additional time to the prisoner's parole revocation period in accordance with the following schedule:~~

~~(A) Felonies. Upon a finding of good cause that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct punishable as a felony, whether or not prosecution is undertaken, the board may assess from 0-180 days of additional revocation time.~~

Acts of misconduct which are punishable as felonies include the following:

1. Murder, manslaughter or attempted murder.

2. Aggravated assault by prisoner.

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~~3. Possession or manufacture of any firearm, deadly weapon, or explosive device (includes any sharp instrument).~~

~~4. Battery on non-prisoner by prisoner.~~

~~5. Assault with a deadly weapon or caustic substance.~~

~~6. Rape, Sodomy or oral copulation accomplished against victim with force.~~

~~7. Arson involving the burning of a structure.~~

~~8. Possession of flammable explosive or combustible material with intent to burn any structure or property.~~

~~9. Solicitation of murder, assault with a deadly weapon by means of force likely to produce bodily injury, arson, or a forcible sex act.~~

~~10. Taking of a hostage.~~

~~11. Escape or attempted escape, with force.~~

~~12. Escape from any prison, institution, camp or re-entry facility.~~

~~13. Escape or attempted escape without force from a prison, institution, camp or re-entry facility.~~

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~~14. Willful and intentional destruction of public property valued in excess of \$400 in a state prison or county jail.~~

~~15. Conspiracy to commit any felony or misdemeanor offense.~~

~~16. Assault or battery on a peace officer, not involving the use of a weapon.~~

~~17. Furnishing equipment or aiding and abetting an escape or escape attempt.~~

~~18. Extortion.~~

~~19. Bribery.~~

~~20. Solicitation of extortion, bribery or forgery.~~

~~21. Arson of land or property of another not involving a structure.~~

~~22. Forgery, falsification or alteration of any official record or document prepared or maintained by the department which could affect a term of imprisonment.~~

~~23. Possession of any narcotic, drug or controlled substance in a re-entry facility.~~

~~24. Manufacture of alcohol.~~

~~25. Possession of any alcoholic beverage or intoxicating substance, in any prison, institution or camp including a re-entry facility.~~

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~~26. Possession of any container, device, contrivance, instrument or paraphernalia intended for unlawfully injecting or consuming narcotics, drugs or alcoholic beverages.~~

~~27. Commission of any felony offense not otherwise mentioned in this schedule.~~

~~(B) Misdemeanors. Upon a finding of good cause to believe that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct punishable as a misdemeanor, whether or not prosecution is undertaken, the board may assess from 0-90 days of additional revocation time.~~

~~Acts of misconduct which are punishable as misdemeanors include the following:~~

~~1. Participating in a riot, rout or unlawful assembly.~~

~~2. Inciting a riot.~~

~~3. Indecent exposure.~~

~~4. Battery on a prisoner in which no serious bodily injury is inflicted and no weapon is used.~~

~~5. Theft or embezzlement involving funds or property with a value less than \$400.~~

~~6. Intentional destruction of state property valued at less than \$400.~~

~~7. Consensual participation in an act of sodomy or oral copulation.~~

~~8. Gambling in any prison, institution, camp or re-entry facility.~~

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~~9. Commission of any misdemeanor offense not otherwise mentioned in this schedule.~~

~~(C) Serious Disciplinary Offenses. Upon a finding of good cause to believe that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct defined as a serious rule violation pursuant to Section 3315, the board may assess from 0-30 days of additional revocation time.~~

Serious disciplinary offenses include but are not limited to the following:

~~1. Any act committed by a prisoner is a serious disciplinary offense if the act or action of the prisoner is an act of force or violence against another person, a breach of or presents a threat to institution security, a serious disruption of institution operations, the introduction or use of dangerous contraband or controlled substances or an attempt to commit any such act coupled with a present ability to carry out the threat or attempt if not prevented from doing so.~~

~~2. Any act of misconduct which is reportable to the Board of Prison Terms.~~

~~3. Intentional destruction of state property valued at \$50 or more, or intentional damage to state property requiring more than \$50 to repair or replace.~~

~~4. Hideout or preparation to escape.~~

~~5. Possession of escape paraphernalia.~~

~~6. Possession of money in an amount of five dollars or more without proper authorization.~~

~~7. Acts of disobedience or disrespect which by reason of intensity or context create a potential for violence or mass disruptive behavior.~~

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~~8. Willfully inciting or attempting to incite other persons to commit an unlawful act of force or violence.~~

~~9. Refusal or failure to perform work or participate in programs as ordered or assigned.~~

~~10. Participation in a strike or work stoppage.~~

~~11. Mail or visiting violations that create a threat to the safety of any individual or to institutional security, including the introduction of dangerous contraband or a controlled substance, or the obtaining or attempt to obtain a family visit by falsification of information.~~

~~12. The throwing of any liquid or solid substance on a nonprisoner.~~

~~13. Unauthorized possession of official departmental records or documents which could affect any prisoner's sentence.~~

~~14. Refusal to submit to a test for controlled substances.~~

~~15. Late return or failure to return from authorized temporary release.~~

~~16. A pattern of administrative rule violations indicating significant maladjustment, which violations are of increasing seriousness or are of special significance in light of an existing release date.~~

~~17. Involvement in a conspiracy to do any or all of the above.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3057, Penal Code.~~

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DIVISION 2. BOARD OF PRISON TERMS  
CHAPTER 6. PAROLE REVOCATION  
ARTICLE 10. WORKTIME CREDITS~~

15 CCR § 2743 to read as follows:

**~~§ 2743. Worktime Credits.~~**

~~(a) Parole Revocation Terms: Parole Hold/Discovery Date Prior to October 1, 2011 with a Revocation Period.~~

~~(1) Except for those parolees falling within the guidelines of Section 2744, any revocation period imposed pursuant to Section 2740 may be reduced in the same manner and to the same extent as the term of imprisonment may be reduced by worktime credits under Penal Code Section 2933. Worktime credit must be earned and may be forfeited pursuant to the provisions of Penal Code Section 2932.~~

~~(2) Worktime credit forfeited shall not be restored.~~

~~(3) Detention in a county jail facility or community correctional facility shall result in the application of time credits equal to those provided in Penal Code Section 2931.~~

~~(b) Parole Revocation Terms: Parole Hold/Discovery Date On or After October 1, 2011 with a Revocation Period Where the Parolee is Housed in a City or County Facility. On and after October 1, 2011, except for those parolees falling under the guidelines of subdivision (c), for parolees housed in a county or city jail, industrial farm, or road camp, a revocation period imposed pursuant to Section 2740 may be reduced in credits under Penal Code Section 4019.~~

~~(c) Parole Revocation Terms: Parole Hold/Discovery Date On or After October 1, 2011 with a Revocation Period for Life Inmates. Except for those parolees falling within the guidelines of Section 2744, any revocation period imposed pursuant to Section 2740 for an inmate with a life term housed in state prison may be reduced in the same manner and to the same extent as the term of imprisonment may be reduced by worktime credit under Penal Code Section 2933. Worktime credit must be earned and may be forfeited pursuant to the provisions of Penal Code Section 2932. This shall apply to life inmates who do not meet the criteria for a hearing pursuant to Penal Code Section 3000.1. This shall also apply to life inmates who do meet the criteria for a~~

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~~hearing pursuant to Penal Code Section 3000.1, but only in the event the disposition of the 3000.1 hearing is for a specific parole revocation period.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 2932, 2933, 3000.1, 3056, 3057 and 4019, Penal Code.~~

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15 CCR § 2744 to read as follows:

**~~§ 2744. Non-Eligibility for Worktime Credits.~~**

~~In addition to and in accordance with Section 2733, parolees with a Parole Hold/Discovery Date prior to October 1, 2011, and life term inmates on and after October 1, 2011, who meet the following criteria are not eligible for worktime credits:~~

~~(a) parolees who are sentenced under Penal Code Section 1168 with a maximum term of life imprisonment.~~

~~(b) parolees who violate a condition of parole relating to association with specified persons, entering prohibited areas, attendance at parole out-patient clinic, or psychiatric attention.~~

~~(c) parolees who were revoked for conduct described in, or that could be prosecuted under, any of the following sections whether or not prosecution is undertaken: Penal Code Section 189, Section 191.5, subdivision (a) of Section 192, subdivision (a) of Section 192.5, Sections 203, 207, 211, 215, 217.1 or 220, subdivision (b) of Section 241, Section 244, paragraph (1) or (2) of subdivision (a) of Section 245, paragraph (2) or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (c) or (d) of Section 286, Section 288, subdivision (c) or (d) of Section 288a, subdivision (a) of Section 289, 347, or 404, subdivision (a) of Section 451, Sections 12022, 12022.5, 12022.53, 12022.7, 12022.8, or 25400, Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, any provision listed in Section 16590, or Section 664 for any attempt to engage in conduct described in or that could be prosecuted under any of the above mentioned sections.~~

~~(d) parolees who were revoked for any reason if they had been granted parole after conviction of any of the offenses specified in Section 2744(c).~~

~~(e) parolees who the Board of Prison Terms finds at a revocation hearing to be unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation, or because of prior criminal history.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3057, Penal Code~~

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## BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2013-05

**SUBJECT: VICTIM IMPACT STATEMENTS**

### INTRODUCTION

This Administrative Directive clarifies the governing law and procedures for consideration of victim impact statements, the parties authorized to provide impact statements, and the manner and method of providing impact statements at parole suitability hearings.

### LEGAL AUTHORITY

#### Governing Law

**Article I, section 28, subdivision (b)(8), of the California Constitution** provides victims with the right "[t]o be heard, upon request, at any proceeding, including any ... post-conviction release decision, ... in which a right of the victim is at issue." The California Supreme Court recently affirmed this right by noting the Board's receipt of such impact statements serves an important purpose – "to provide victims due process by affording them an opportunity to be heard in proceedings concerning the ... release of those who victimized them." (*In re Vicks* (2 013) 56 Cal.4<sup>th</sup> 274 .) As the court explained, regardless of legal relevance the purpose of a procedural right such as the right to be heard is to "ensure that crime victims are treated with respect and dignity." (**Cal. Const., art I, § 28, subd. (a)(2).**) Thus, it can be said that a crime victim has a constitutional due process right to provide an impact statement at all proceedings related to post-conviction release decisions.

#### Parties Authorized to Provide Impact Statements

**Penal Code section 3043, subdivision (b)(1)**, provides that, "The victim, next of kin, members of the victim's family, and two representatives ... have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the prisoner and the case ...."

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For disability related accommodations, please contact the BPH Americans with Disabilities Act Coordinator at (916) 445-4072, at least five (5) working days prior to the scheduled meeting. All persons and property entering into this facility may be subject to search. No unauthorized weapons are allowed pursuant to Penal Code Section 171b.

### Manner and Method of Providing Impact Statements

**Penal Code section 3043.2, subdivision (a)(1)**, provides that, "In lieu of personal appearance ... the Board of Prison Terms shall permit the victim, his or her next of kin, immediate family members, or two representatives ... to file with the board a written, audiotaped, or videotaped statement, or statement stored on a CD Rom, DVD, or any other recording medium accepted by a court pursuant to Section 1191.15 or by the board, expressing his or her views concerning the crime and the person responsible .... [A]ny statement provided by a representative designated by the victim or next of kin shall be limited to comments concerning the effect of the crime on the victim."

**Penal Code section 3043.6** requires that, "Any person authorized to appear at a parole hearing pursuant to Section 3043, or a prosecutor authorized to represent the views of the victim, his or her immediate family, or next of kin, pursuant to Section 3043.2, shall *have the right to speak last before the board* in regard to those persons appearing and speaking before the board at a parole hearing. Nothing in this section shall prohibit the person presiding at the hearing from taking any steps he or she deems appropriate to ensure that only accurate and relevant statements are considered in determining parole suitability as provided in law, including, but not limited to, the rebuttal of inaccurate statements made by any party." (Emphasis added.)

**Penal Code section 3043, subdivision (d)**, requires that, "The board, in deciding whether to release the person on parole, shall consider *the entire and uninterrupted statements* of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section ...." (Emphasis added.)

**Penal Code section 3041.5, subdivision (a)(2)**, mandates that, "Neither the prisoner nor the attorney for the prisoner shall be entitled to ask questions of any person appearing at the hearing pursuant to subdivision (b) of Section 3043."

### **DISCUSSION**

Victims, their next-of-kin, members of the victims' families, and two designated representatives have a constitutionally protected right to provide impact statements at all parole suitability hearings. Generally speaking, impact statements should address the speaker's views concerning the prisoner and the case, especially the prisoner's suitability and the effect of the crime on the victim. It should be noted that impact statements by representatives are statutorily limited to the effects of the crime on the

victim. It should also be noted that impact statements may be made in person, via audio or video conference, or submitted to the board as a written, audiotaped, or videotaped statement.

#### **DIRECTIVE**

The Board shall ensure that all victims and other statutorily authorized parties are afforded an opportunity to provide an uninterrupted impact statement at any proceeding related to a prisoner's potential release. The Board shall also ensure that all impact statements, including written and recorded statements received at or before the start of the proceeding, are considered in their entirety prior to rendering a decision; that questions are not put to victims or other authorized parties by the prisoner or the prisoner's attorney during the proceedings; and that victims and other authorized parties are heard last, except in rare instances when the presiding hearing officer determines additional information must be considered to rebut potentially inaccurate information.

*This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.*

<b>APPROVED BY:</b> _____ <b>JENNIFER P. SHAFFER</b> <b>Executive Officer, BPH</b>	<b>DATE:</b> _____
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## BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2013-04

**SUBJECT: GUIDANCE ON HANDLING INTIMATE PARTNER BATTERING  
INFORMATION AT PAROLE SUITABILITY HEARINGS**

### INTRODUCTION

Penal Code section 4801, which addresses how the Board should handle intimate partner battering (IPB) information at parole suitability hearings, was amended effective January 1, 2013. This directive highlights the changes to section 4801 and provides guidance on handling IPB information.

### LEGAL AUTHORITY

**Penal Code section 4801(a)** defines "intimate partner battering and its effects" to include "evidence of the nature and effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence where it appears the criminal behavior was the result of that victimization."

**Penal Code section 4801(b)(1)** provides that in reviewing a prisoner's parole suitability, the Board "shall give great weight to any information or evidence that, at the time of the commission of the crime, the prisoner had experienced intimate partner battering, but was convicted of an offense that occurred prior to August 29, 1996. The board shall state on the record the information or evidence that it considered pursuant to this subdivision, and the reasons for the parole decision."

**Penal Code section 4801(b)(3)** further directs the Board, "The fact that a prisoner has presented evidence of intimate partner battering cannot be used to support a finding that the prisoner lacks insight into his or her crime and its causes."

**California Code of Regulations (CCR), Title 15, section 2281(b)** requires the panel to consider "all relevant, reliable information available to the panel" in determining suitability for parole.

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at (916) 445-4072, at least five (5) working days prior to the scheduled meeting. All persons and property entering into this facility may be subject to search. No unauthorized weapons are allowed pursuant to Penal Code Section 171b.

## DIRECTIVE

If the prisoner's controlling offense occurred prior to August 29, 1996, and the prisoner presents IPB information, all of the following shall occur:

- (1) The hearing panel shall determine if the IPB information is relevant. For example, IPB information is always relevant if the panel finds the criminal behavior was the result of that victimization.
- (2) The hearing panel shall determine if the IPB information is reliable.
- (3) Having established relevance and reliability, the hearing panel shall give great weight to the IPB information. This means that the panel shall not merely consider, but shall give *more* weight to IPB information than it would to other information available to the panel. However, the ultimate issue that the panel must decide – whether or not an inmate will pose an unreasonable risk of danger to society if released – remains the same.
- (4) The hearing panel shall not find a lack of insight based solely on the presentation of IPB information. However, other information may demonstrate a lack of insight, such as substance abuse, gang affiliation, and failure to address and correct harmful behavioral patterns.
- (5) The hearing panel shall state on the record the IPB information considered.

*This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.*

APPROVED BY: \_\_\_\_\_

JENNIFER P. SHAFFER  
Executive Officer, BPH

DATE: \_\_\_\_\_